

Doug James (2237)
MOULTON BELLINGHAM PC
Suite 1900, Crowne Plaza
P. O. Box 2559
Billings, Montana 59103-2559
Telephone: (406) 248-7731
Doug.James@moultonbellingham.com

Attorneys for Meridian Surgical Partners
Montana, LLC and Meridian Surgical Partners, LLC

UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF MONTANA

IN RE:

JOHN HENRY SCHNEIDER,

Debtor.

Case No. 14-61357

**MOTION TO MODIFY STAY
AND NOTICE**

The Motion of Meridian Surgical Partners - Montana, LLC and Meridian Surgical Partners, LLC ("Creditors") seek relief from the automatic stay in order to continue to defend an arbitration proceeding commenced by the Debtor as well as to continue to prosecute their counterclaims against the Debtor in the arbitration, Case No. 65-20-1400-0026 before the American Arbitration Association. In support of their motion, Creditors respectfully represents:

1. The Debtor filed a Petition in this Court under Chapter 7 of the Bankruptcy Code on December 4, 2014.
2. Creditors are the holders of unsecured claims against the Debtor, and pursuant to Mont. LBR 4001-1, provide the following information:

- (a) Present Balance Owing - undetermined: Creditors seek relief from the automatic stay in order to continuing prosecuting Counterclaims against Debtor John Henry Schneider in an Arbitration Proceeding before the American Arbitration Association, Case No. 65-20-1400-0026. Copy of Creditors' Counterclaims are attached hereto.
- (b) Date upon which the debts were incurred: Various dates.
- (c) Creditor holds a Security Interest in the following property of the estate: N/A.
- (d) Nature of Security Interest: N/A.
- (e) Creditor has standing to file this motion on the following grounds: Debtor instituted an Arbitration proceeding against Creditors pursuant to which Creditors filed Counterclaims. Creditors are asserting Counterclaim on their own behalf.
- (f) A Description of Creditor's Collateral: N/A.
- (g) Fair Market Value of Collateral: N/A.
- (h) Other Amounts Due: N/A.
- (i) Debtor's Default Status: Debtor is in default. See the Counterclaims attached hereto.
- (j) Post-Petition Defaults: N/A.
- (k) This Motion is made under and pursuant to the following subsection of 11 U.S.C. § 362(d).
- (l) Other facts which are relevant in determining whether relief should be granted are as follows: Creditors seek relief from the automatic stay in order to continue prosecuting their Counterclaims in the Arbitration proceeding initiated by Debtor, see Exhibit A hereto. Creditors agree that in the event that they obtain an Arbitration Award against the Debtor that Creditors shall not seek to execute the Arbitration Award against any property of the estate. Creditors stipulate that any Arbitration Award shall establish the dollar amount of Creditors claim in the Debtor's Bankruptcy case.

WHEREFORE, Creditor moves the Court to grant this Motion to Modify Stay, and to grant such other relief as the Court may deem appropriate.

DATED this 31st day of March, 2015.

MOULTON BELLINGHAM PC

By /s/ Doug James
DOUG JAMES
Suite 1900, Crowne Plaza
P. O. Box 2559
Billings, Montana 59103-2559

Attorneys for Meridian Surgical Partners
Montana, LLC and Meridian Surgical
Partners, LLC

NOTICE OF OPPORTUNITY TO RESPOND AND REQUEST A HEARING

If you object to the application, you must file a written responsive pleading and request a hearing within fourteen (14) days of the date of the notice. The responding party shall schedule the hearing on the application at least 21 days after the date of the response and request for hearing and shall include in the caption of the responsive pleading, the date, time and location of the hearing by inserting in the caption the following:

NOTICE OF HEARING

Date: _____
Time: _____
Location: _____

This contested matter shall be scheduled for hearing for the next hearing date scheduled in the division within which the case is filed. The date, time and location of the hearing can be obtained from the Clerk of Court or from the Court's website at www.mtb.uscourts.gov. In the event such scheduled hearing date is thirty (30) days beyond the filing date of the motion for relief, then a preliminary hearing within such thirty (30) day period shall be scheduled by the responding party after such party contacts the Clerk of Court to confirm the

preliminary telephone hearing date and time, which shall be set forth in the response.

If you fail to file a written response to the above Motion to Modify Stay within the particularity required by Mont. LBR 4001-1(c), and request a hearing, within fourteen (14) days of the date of this Notice, with service on the undersigned and all parties entitled to service under all applicable rules, then your failure to respond or to request a hearing will be deemed an admission that the motion for relief should be granted without further notice or hearing.

Dated this 31st day of March, 2015.

MOULTON BELLINGHAM, PC

By: /s/ Doug James
DOUG JAMES
Attorneys for Meridian Surgical Partners
Montana, LLC and Meridian Surgical
Partners, LLC

CERTIFICATE OF SERVICE

I, the undersigned, do hereby certify under penalty of perjury that on the 31st day of March, 2015, a copy of the foregoing was served by (1) electronic means pursuant to LBR 9013-1(c) on the parties noted in the Court's ECF transmission facilities and to the following via U.S. mail, postage prepaid:

John Henry Schneider
3611 Tommy Armour Circle
Billings, MT 59106

MOULTON BELLINGHAM PC

/s/ Doug James
DOUG JAMES